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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,243	01/02/2004	Vladimir Marin	COS-971	3854

7590 08/30/2006

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EXAMINER

LU, C CAIXIA

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/751,243	Applicant(s) MARIN ET AL.	
	Examiner Caixia Lu	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/12/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-9 and 13-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

1. Applicant's election of Group I and species of catalyst 7 of Example 19, in the reply filed on July 12, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. The elected species is found to be novel as indicated in the Office action of March 14, 2006. Applicants amendment filed July 12, 2006 has overcome the rejections over diphenylsilanediyl(cyclopentadienyl)(4-*t*-butylfluorenyl)zirconium dichloride of Sone et al. (US 6,639,030) and isopropylidene(cyclopentadienyl)(4-methylfluorenyl)zirconium dichloride of Sunaga et al. (US 6,063,725). The search is now extended to the metallocene species 1,2-bis(4-benzyl-fluorenyl)ethane $ZrCl_2$ and 1,1,2,2-tetraethyldisilanediyl(2-methylindenyl)(4-phenylfluorenyl)zirconium dichloride, those species read on claims 1, 3, and 10-12.

Claim Rejections - 35 USC § 102

3. Claims 1, 3, and 10-12 rejected under 35 U.S.C. 102(b) as being anticipated by Kaufmann et al. (US 5,770,752) and Schertl et al. (US 5,668,230) in dependently.

1,2-bis(4-benzyl-fluorenyl)ethane $ZrCl_2$ of Schertl (col. 6, Table 1) and 1,1,2,2-tetraethyldisilanediyl(2-methylindenyl)(4-phenylfluorenyl)zirconium

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dichloride of Kaufmann (col. 9, lines 16-17 and col. 13, lines 48-49) meet the limitation of the instant claims.

Allowable Subject Matter

4. There is no prior art teach the elected species of [3-tert-butyl-5-methyl-cyclopentadienyl)-(4-phenyl-2,7-di-tert-butylfluorenyl)dimethylsilane]zirconium dichloride as the catalyst for the preparation of isotactic polyolefins.

Response to Arguments

5. Applicant's arguments with respect to the rejections of previous Office action have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.

A handwritten signature in black ink, appearing to read 'Caixia Lu', is positioned above the printed name and title.

Caixia Lu, Ph. D.
Primary Examiner